

### REMARKS

Claims 4-6, 13-15 and 22-24 are pending in the application. Claims 4, 13, and 22 have been amended. Claims 1-3, 7-12, 16-21 and 25-27 have been previously cancelled.

#### Claim Rejections Under 35 U.S.C. § 102(e)

Claims 4-6, 13-15 and 22-24 were rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,188,792 to Chujoh ("Chujoh").

In the Response to the preceding Office Action, Applicants pointed out that claim 4, for example, referred to "determining whether the processor is limited in its ability to compress video image data, and adjusting a target frame rate based on a current amount of time taken to compress the video image data." Applicants argued that Chujoh does not teach or suggest adjusting a target frame rate based on a current amount of time taken to compress the video image data. Chujoh takes action due to the inability of the output buffer to output data to the communications channel.

In the current Office Action, the Examiner cites Col. 3, lines 35-42 of Chujoh. A copy of the entire paragraph with lines 35-42 in bold is presented below:

A video encoding apparatus of the present invention comprises an encoding section for encoding an input picture signal, an output section for temporarily holding the output encoded data from the encoding section and outputting the encoded data at a predetermined transmission rate, and **control means for setting the target number of bits of each frame by adjusting the number of bits determined by the transmission rate and a predetermined encoding frame rate so that a delay time when the output section outputs the stored encoded data at the predetermined transmission rate is within a predetermined limit delay time, and, on the basis of this target number of bits, controlling the number of encoded bits generated by the encoding section.** With this arrangement, encoding can be performed at an encoding frame rate suitable for the picture quality and the amount of delay when the encoded data is output can be decreased.

The Examiner argues that "[f]rom this segment, the amount of delay time controls how much encoded bits can be generated i.e. the encoder's ability to compress video image data. Whether the delay time is caused by the buffer is irrelevant. Hence the determining and adjusting steps as claimed are met by Chujoh."

The claims as originally filed recited a determination of whether the processor is limited in its ability to compress video image data. Accordingly, the claims have been amended to more clearly recite this feature. Applicants respectfully request reconsideration of the rejection of these claims. Chujoh is clearly referring to the ability of a buffer to output data and in no way describes the processor's ability to compress data. The cited paragraph from Chujoh clearly states that the video encoding apparatus is divided into two sections: an encoding section and an output section. The actions taken by Chujoh are in response to the output section not being able to output data and not the capabilities of the encoding section. In view of the above, reconsideration and withdrawal of the rejection of claims 4-6, 13-15 and 22-24 under 35 U.S.C. § 102(e) is respectfully requested.

**CONCLUSION**

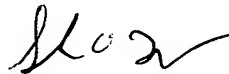
In view of the above remarks, the Applicant respectfully submits that the present case is in condition for allowance and respectfully requests that the Examiner issue a notice of allowance for all currently pending claims.

The Office is hereby authorized to charge any fees determined to be necessary under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayment to Kenyon & Kenyon **Deposit Account No. 11-0600**.

The Examiner is invited to contact the undersigned at (202) 220-4255 to discuss any matter concerning this application.

Respectfully submitted,

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